

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

CHARLES WIRTH,

Plaintiff(s),

v.

NEVADA SUPREME COURT, et al.,

Defendant(s).

Case No. 3:19-CV-276 JCM (WGC)

ORDER

Presently before the court is the matter of *Wirth v. Nevada Supreme Court et al.* This court previously granted Wirth's motion for leave to proceed in forma pauperis ("IFP") but ruled that his petition for a writ of mandamus was moot. (ECF No. 15). Wirth filed a notice of appeal. (ECF No. 16). The Ninth Circuit referred this matter back to this court for the limited purpose of determining whether Wirth's IFP status should continue on appeal or whether his appeal is frivolous or taken in bad faith. (ECF No. 19).

An appeal may not be taken in forma pauperis if "the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). A plaintiff satisfies the good faith requirement if he seeks appellate review of any issue that is "not frivolous." *Gardner v. Pogue*, 558 F.2d 548, 551 (9th Cir. 1977) (quotation omitted).

An appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1225 (9th Cir. 1984). Thus, revocation of IFP status is appropriate under Section 1915 when an appeal contains only non-frivolous issues or claims. *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

1 The court finds that the appeal is frivolous and not taken in good faith. Accordingly,
2 Wirth's IFP status is REVOKED. The clerk shall forward a copy of this order to the Ninth
3 Circuit.

4 IT IS SO ORDERED.

5 DATED October 21, 2020.

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7 UNITED STATES DISTRICT JUDGE
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